

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 5:03-00095

ALGIE KENYA SCALES

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion for an extension of time in which to file his notice of appeal. The United States does not oppose defendant's motion. For good cause shown, that motion is GRANTED.

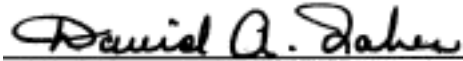
Defendant wishes to appeal the court's Order of June 11, 2009, denying his motion, pursuant to 18 U.S.C. § 3582(c)(2), for a reduction in sentence. Defendant filed his notice of appeal on July 1, 2009, outside the ten-day window for doing so. In his motion, defendant, who is incarcerated, contends that he wrote to his attorney on June 12, 2009, informing her of his desire to appeal the court's ruling. That letter, however, was not received by counsel until June 29, 2009.

Under Federal Rule of Appellate Procedure 4(b)(4), the court may grant an extension of up to thirty days to file a notice of appeal, and such an extension would render defendant's notice of appeal timely in the present case. The court believes that good cause exists for extending the appeal period in this case and, accordingly, defendant's motion is GRANTED.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record and to Mr. Scales.

IT IS SO ORDERED this 7th day of July, 2009.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge